THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :25586 of 2007

DATED:03-12-2007

BETWEEN:
Ega Venkataramaiah.

..... PETITIONER

AND

The Tahsildar,
Vinjamur mandal,
Nellore District & another.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the order in Rc.B.284/2007, dated 10-09-2007, passed by the 1st respondent in cancelling the assignment patta granted in favour of the petitioner in F.Dis.No.94/DAR/1398, dated 30-04-1989, and also the action of the 2nd respondent in not granting stay of the order in Rc.No.B/284/2007, dated 10-09-2007, pending appeal, as illegal, and arbitrary.

3. It is the case of the petitioner that the 1st respondent-Tahsildar, Vinjamur mandal resumed the lands of an extent of Ac.2.00 in Sy.No.327/2 situated at Ravipadu village, Vinjamur mandal under Section 4(1) (b) of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for brevity, 'the Act') on the ground that the said land was assigned in favour of one Ega Govindammam, w/o Venkata Ramaiah vide F.Dis.No.94/DAR/1398, dated 30-04-1989, and the said assignee alienated the same in favour of one D.Venkateswarlu, s/o Malakondaiah and the said Venkateswarlu is not the legal heir of the original assignee who is found in possession of the said land in question and therefore there is a violation of sub-Sections 1 and 2 of Section 3 of the Act.

4. It is further stated that notice was served on the assignee as well as the alienee-Venkateswarlu in Form 1 & 2. It is the case of the petitioner herein that he is the grand son of the original assignee i.e., son's son of the said Govindamma and he never alienated the said property and is in possession of the same. If that be so, I am of the opinion that the petitioner cannot have any grievance in resuming the lands from the possession of the said Venkateswarlu and restoration of the same in favour of the assignee/legal heirs under Section 41-B of the Act.

5. A perusal of the impugned order goes to show that the lands have been resumed from the possession of the alleged transferee on the ground that the original assignee has not filed any explanation stating that the original assignee or legal heirs are in active occupation of the same. However, it is stated that after verifying the assignee as on date, further action will be taken for restoration of the land in favour of the assignee/legal heirs under Section 4(1)(b) of the Act. If that be so, there cannot be any grievance for the petitioner to question the said order as it is for the 1st respondent to verify whether the petitioner is the legal heir of the original assignee and if he is the legal heir and if he has not alienated the said land, it is open for him to take appropriate steps for restoration of the possession.

6. It is stated that under the guise of the resumption orders petitioner is sought to be dispossessed and therefore, petitioner filed an appeal before the 2nd respondent-Revenue Divisional Officer, Kavali on
23-11-2007, along with application to grant stay. As an appeal is said to have been filed before the 2nd respondent,
I am not inclined to express any opinion with regard to the

possession over the land by the petitioner as it is either for the 1st respondent or for the appellate authority to consider the contention of the petitioner and take a decision in accordance with law.

7. Having regard to the facts and circumstances, as an appeal is pending I am not inclined to express any opinion with regard to the merits of the case.

8. Accordingly, Writ Petition is dismissed. There shall be no order as to costs.

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V.ESWARAIAH,J

03rd December, 2007.
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